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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/719,497	08/09/2001	Leonid Ivanovich Akopov	GAI-001US	2241

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EXAMINER

SHAY, DAVID M

ART UNIT	PAPER NUMBER
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3739

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DATE MAILED: 04/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/719,497

Applicant(s)

A Popov et al

Examiner

J. Shay

Group Art Unit

3739

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on March 28, 2002
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-31 is/are pending in the application.
- Of the above claim(s) 27-31 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-26 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

Art Unit: 3739

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-26, drawn to a device for therapeutic photoprocessing, classified in class 607, subclass 90.
- II. Claim 27, drawn to a method of depilation, classified in class 606, subclass 9.
- III. Claim 28, drawn to a method of skin treatment, classified in class 607, subclass 100.
- IV. Claim 29, drawn to a method of photocoagulation, classified in class 606, subclass 3.
- V. Claim 30, drawn to a method of damaging subcutaneous fat, classified in class 128, subclass 898.
- VI. Claim 31, drawn to a method of skin photoprocessing, classified in class 606, subclass 13.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. Tom Engelliner on March 19, 2004 a provisional election was made with traverse to prosecute the invention of group I, claims 1-26. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-26 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

The spacing of the lines of the specification is such as to make reading and entry of amendments difficult. New application papers with lines double spaced on good quality paper are required.

Color photographs and color drawings are acceptable only for examination purposes unless a petition filed under 37 CFR 1.84(a)(2) is granted permitting their use as acceptable drawings. In the event that applicant wishes to use the drawings currently on file as acceptable drawings, a petition must be filed for acceptance of the color photographs or color drawings as acceptable drawings. Any such petition must be accompanied by the appropriate fee set forth in 37 CFR 1.17(h), three sets of color drawings or color photographs, as appropriate, and, unless already present, an amendment to include the following language as the first paragraph of the brief description of the drawings section of the specification:

The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee.

Color photographs will be accepted if the conditions for accepting color drawings have been satisfied.

The drawings are objected to because the drawing sheets include extraneous text e.g. "REPLACEMENT PAGE (RULE 26)"; and indicia in the Cyrillic alphabet which appear to be in Russian (e.g. Fig 2) the Figures on sheets labeled 27 of 33; 28 of 33; 29 of 33; 30 of 33; 31 of 33; and 32 of 33 have no figure numbers associated therewith; many of the figures do not have elements clearly labeled with indicia indicative of their function. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The disclosure is objected to because of the following informalities: the Brief description of the Drawings should have the description of each drawing in a separate paragraph.

Appropriate correction is required.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are indefinite due to the inclusion of numerical indicia; possibly referring to the drawings, however the limitation intended to be conveyed by these numerals is unclear. Further claim 1 positively recited the waveguide “in contact with the biological tissue” and is indefinite, as it appears to claim the body.

Koop et al teach precooling with a filament lamp, but do not teach measuring the resistance of the filament.

McDaniel teach treatment with a filament lamp.

Eckhouse teaches skin treatment wherein the output is filtered a waveguide contacts the skin and cooling the skin.

Potratz teaches measuring the resistance of a filament to determine its temperature.

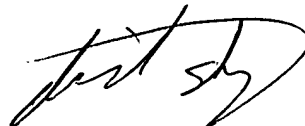
Johnson teaches monitoring the resistance of a filament to control the temperature.

Claims 1-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Any inquiry concerning this communication should be directed to David Shay at
telephone number 308-2215.

A handwritten signature in black ink, appearing to read "David M. Shay", written in a cursive style.

Shay/DI

April 1, 2004

DAVID M. SHAY
PRIMARY EXAMINER
GROUP 330